

## Department of Energy

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AUTHORITY: 42 U.S.C. 7151, 7254; 42 U.S.C. 5814, 5815; 42 U.S.C. 2183, 2187, 2223; 35 U.S.C. 183; North American Free Trade Agreement, Article 1709(10), as implemented by the North American Free Trade Agreement Implementing Act, Pub. L. 103-182.

SOURCE: 46 FR 39581, Aug. 4, 1981, unless otherwise noted.

## Subpart A—General Provisions

### § 780.1 Scope.

The regulations in this part establish the procedures, terms, and conditions for Patent Compensation Board:

- (a) Proceedings to declare a patent affected with the public interest pursuant to section 153a of the Atomic Energy Act of 1954 (Pub. L. 83-703; 42 U.S.C. 2183);  
(b) Proceedings to determine a reasonable royalty fee pursuant to section 157 of the Atomic Energy Act of 1954;  
(c) Proceedings for the grant of an award pursuant to section 157 of the Atomic Energy Act of 1954;  
(d) Proceedings to obtain compensation pursuant to section 173 of the Atomic Energy Act of 1954 and the Invention Secrecy Act (35 U.S.C. 183);

And for applications to the Department of Energy (DOE) for a patent license pursuant to sections 153b(2) and 153c of the Atomic Energy Act of 1954.

### § 780.2 Definitions.

(a) *Act* means the Atomic Energy Act of 1954 (Pub. L. 83-703; 42 U.S.C. 2011).

(b) *Application* means the application filed by an applicant for a patent license, for the determination of a reasonable royalty fee, for an award, or for compensation under this part.

(c) *Board* means the Patent Compensation Board.

(d) *Chairman* means the Chairman of the Patent Compensation Board.

(e) *Department*, or *DOE*, or *Department of Energy* means the Department of Energy, established by the Department of Energy Organization Act (Pub. L. 95-91; 42 U.S.C. 7101).

(f) *Party* means the applicant, patent owner, Department representative, and any person admitted as a party by the Board for any proceeding under this part.

(g) *Patent Owner* means the owner of record in the United States Patent and Trademark Office.

(h) *Secretary* means the Secretary of the Department of Energy or the delegate of the Secretary of Energy.

### § 780.3 Jurisdiction of the Patent Compensation Board.

The Patent Compensation Board was established by section 157 of the Atomic Energy Act of 1954. It was transferred to the Energy Research and Development Administration pursuant to section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5814) and subsequently to the Department of Energy by section 301 of the Department of Energy Organization Act (42 U.S.C. 7151). Under section 157, the Board is given authority to determine reasonable royalty fees or resolve issues involving the grant of awards. In addition, the Board has authority:

(a) To hear and make decisions as to compensation under section 173 of the Act (42 U.S.C. 2223) and the Invention Secrecy Act (35 U.S.C. 183);

(b) To hear and make decisions as to whether a specific patent is affected with the public interest pursuant to section 153a of the Act;

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(c) To hear and make decisions as to whether a specific patent license should be granted under sections 153b(2) and 153e of the Act;

(d) To give notices, hold hearings and take such other actions as may be necessary under section 153; and

(e) To exercise all powers available under the Act and necessary for the performance of these duties, including the issuance of such rules of procedure as may be necessary.

#### **§ 780.4 Filing and service of documents.**

(a) All communications regarding proceedings subject to this part should be addressed to: Chairman, Patent Compensation Board, U.S. Department of Energy, Webb Building, Room 1006, 4040 N. Fairfax Drive, Arlington, Virginia 22203. All documents offered for filing shall be accompanied by proof of service upon all parties to the proceeding or their attorneys of record as required by law, rule, or order of the Department. Service on the Department shall be by mail, telegram, or delivery to: Office of the Assistant General Counsel for Patents, U.S. Department of Energy, Washington, DC 20585.

(b) Filing by mail or telegram will be deemed to be complete as of the time of deposit in the United States mail or with a telegraph company.

#### **§ 780.5 Applications—General form, content, and filing.**

(a) Each application shall be signed by the applicant and shall state the applicant's name and address. If the applicant is a corporation, the application shall be signed by an authorized officer of the corporation, and the application shall indicate the state of incorporation. Where the applicant elects to be represented by counsel, a signed notice to that effect shall be filed with the Board.

(b) Each application must contain a concise statement of all of the essential facts upon which it is based. No particular form of statement is required. Each application shall be verified by the applicant or by the person having the best knowledge of such facts. In the case of facts stated on information and belief, the source of such

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information and grounds of belief shall be given.

(c) Each application must identify any person whose interest the applicant believes may be affected by the proceeding before the Board.

(d) Three copies of each application shall be filed with the Board. However, only one copy of the accompanying exhibits need be filed.

(e) The Board will acknowledge the receipt of the application in writing and advise the applicant of the docket number assigned to the application.

#### **§ 780.6 Department participation.**

The Department shall be a party to all proceedings under this part, and the Office of the General Counsel will represent the Department's interests before the Board.

#### **§ 780.7 Designation of interested persons as parties.**

In any proceeding under this part, the Board shall admit as a party any person, upon application of such person or on the Board's own initiative, whose interest may be affected by the proceeding.

#### **§ 780.8 Security.**

In any proceeding under this part, the Board shall take such steps as necessary pursuant to chapter 12 of the Act and section 181 of the Act to assure compliance with Department security regulations and the common defense.

#### **§ 780.9 Rules of procedure before the Board.**

Except as set forth in this part, all Board proceedings, including the hearing and decision, shall be conducted pursuant to the rules of practice of the Department of Energy Board of Contract Appeals, 10 CFR part 1023, modified as the Board may determine to be necessary and appropriate.

#### **§ 780.10 Decision of the Board.**

The decision of the Board in any proceeding under this part shall constitute the final action of the Department on the matter.

#### **§ 780.11 Records of the Board.**

The records of the Board in cases filed before it, including the pleadings,